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STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Greenville Co.
the Court of General Sessions
Hon. Chief Admin. Judge
Letitia H. Verdin
2017-001353
2002-GS-23-1576

The State

Respondent

vs

Jerome Williams

Appellant

RECORD ON APPEAL

RECEIVED

MAY 14 2018

SC Court of Appeals

- (1) Betty Strou's Ex. A
- (2) Ex. B - Appellant's 60 (b) motion
- (3) Ex. 1 - Appellant's Incl.
- (4) Ex. 2 - Appellant's Court term calendar
- (5) Ex. C letter from Betty Strou to Judge Verdin dated Feb 14, 17
- (6) Ex. D - Appellant's letter to Judge Verdin dated Feb 20, 17
- (7) Ex. E - Judge's order
- (8) Ex. 3
- (9) Tr. Transcript 1-13

The undersigned hereby certifies that the Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

Date: 5/9/2018

Jerome Williams

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STATEMENT OF ISSUES ON APPEAL

(1) WHETHER THE COURT WAS REQUIRED TO ADDRESS APPELLANT'S 60 (b) ACTION AS A CIVIL MATTER AND TRANSFER HIS ACTION TO THE COURT OF COMMON PLEAS

(2) WHETHER THE COURT OF GENERAL SESSIONS LACK SUBJECT MATTER JURISDICTION TO RULE ON APPELLANT'S 60 (b) ACTION ITSELF

(3)

STATEMENT OF CASE

On June 19, 2002 in Greenville Co. Appellant, Jerome Williams pled guilty to first-degree burglary and received a sentence of 30 years imprisonment in the South Carolina Department of Corrections. On 10-13-2014 Appellant moved to set aside the judgment of his criminal indictment thus his guilty plea pursuant to S.C.R. Civil P. - Rule 60(b)(3) and (5). This 60(b) action was mistakenly filed in the Court of General Sessions.

On May 12, 2017 Appellant appeared before Hon. Judge Letitia H. Verdin

to address his action. On May 15, 2017 Judge Verdin denied Appellant's 60 (b) action. On June 14, 17 Appellant filed his notice of appeal. This appeal follows:

ARGUMENT (1)

The court was required to address Appellant's 60 (b) action as a civil matter and transfer his action to the court of common pleas. Where Appellant mistakenly filed his 60 (b) action in the the court of General Sessions SEE: Ex B

arguing that his action involves Appellant's attempt to gain relief from the judgment and conviction and sentence entered against him on June 19, 2002. The rule 60 (b) (3) (5) S.C.R.C.P motion raises claim of a fraud upon the

court, resulting from acts of gross misconduct and criminal violation of the law, as perpetuated by Lora A. Reese, the Greenville County Assistant Solicitor, in office on Feb. 19, 2002, at the time the violations herein alleged arose.

It was very clear that Appellant's action was made for relief from judgment under S.C.R. Civil P. Rule 60 (b) (3): Where Rule 1, S.C.R. Civil P. govern the procedure in all South Carolina courts in all suits of a civil nature, it's clear that Appellant action should have been heard in the court of Common pleas.

Here Appellant's 60 (b) action rest within the sound discretion of the trial

"
Court of common pleas SEE: Savo Investments
v Ocean Holiday Partnership 314 S.C. 116, 441
SE2d 835; Thomas v Hammond 382 SE2d
900. A motion asserting "Fraud upon the
Court" concerns the integrity of the judicial
process itself and a judgment may be set
aside for fraud upon the court at any time
SEE: 12 Joseph T. McLaughlin, Morris Federal
Practice 60.21.4 (a) at 60-61 Also see
Chewing v Ford Motor Credit 579 SE2d 605
There is no statute of limitation when a
party seeks to set aside a judgment due
to fraud upon the court. Indeed, the very
language of rule 60 (b) (3) (5) so provides.
This rule does not limit the power of the
court.... to set aside a judgment for fraud
upon the court.

In this case, Williams bill of indictment prints that, at a Court of General Sessions, convened on Feb. 19, 2002, the Grand Jurors of Greenville Co. presented upon their oath SEE: Exhibit 1 "Indictment" and the title page prints that it was published at a court of General Sessions during its Feb term 2002.

Although, Deputy Solicitor Betty C. Stroom submitted State's Exhibit A showing the Chief Administrative Judge for General Sessions in Greenville Co. order when they should have convene SEE: Exhibit A

Appellant argue that he presented clear evidence SEE: Exhibit 1 and Exhibit 2 that established that no court of General Sessions had in fact been open on the

indictments February 19, 2002 date of return. SEE: Exhibit 2 certified true copy Ct. term calendar and Exhibit 1 clearly shows that no General Sessions Ct. had been open on the date in question. And, although Deputy Solicitor Ms. Strom submitted Exhibit A, there is "no" proof that the court convene on the date in question. Also see Ex. 3. Therefore, Assistant Solicitor Reese's act can be said, subvert the integrity of the court in a way that was extrinsic fraud upon the court SEE: Evans v Gunter 366 SE2d 44

Here, Appellant met his burden of presenting evidence that proved the facts essential to entitled him to relief SEE: Bowers v Bowers 403 SE2d 127.

Wherefore, The court was required to address Appellant's 60(b) action as a civil matter, and transfer Appellant's to the court of common pleas SEE:

S.C.R. Civil P. - Rule 82 (b) SEE:

Ex C; Ex D and Ex. E Tr. p 4 L 6 - p 6 - L 4. Which Appellant was not aware that his 60(b) motion was being heard in the court of General Sessions. Nor did the court let on that his 60(b) was in the court of General Sessions.

Here, The Respondents argument (I) is unpersuasive. Because the judge's ruling, nor the hearing transcript showed where the judge appropriately construed Appellant's 60(b) motion to a post-trial motion.

When Appellant clearly argued his motion as a 60(b) motion at the out-set of the hearing SEE Tr. Tpt-13 Therefore.

his 60 (b) motion was timely filed SEE:
Chewing v Ford Motor Credit Co. 579 SE2d
605. Where it states that there is
no statute of limitation for extrinsic
fraud, as Appellant was seeking in his
action.

Moreover, Appellant argues that this is
not the first time, that he has
claimed that he had filed "mistakenly
filed his 60 (b) motion in the wrong
court, as the Respondent has argued
SEE: Ex D and Ex. C

Therefore, this is not Appellant's first time
bring this matter to the court and solicitor
Betty Strom attention.

And, as argued above, the Appellant was
not aware that his 60 (b) motion was
being heard in the court of General

Sessions. Nor did the court inform Appellant that his 60 (b) was in the court of General Sessions. to timely object. Appellant was not aware his 60 (b) motion was heard in the Court of General Sessions, until he received the judge's order showing heading of Ct. of General Sessions SEE: Ex. E But, at the same time acknowledging Appellant's fraud claim. with no factual conclusions of law - NO evidentiary support. Therefore, this issue is preserved for appeal review.

Further, The Appellant argue, that the Respondent's argument is misplaced, where Appellant has never argued "after discovered evidence" therefore, the judge

Could not have properly / legally construed his 60 (b) motion into a Rule 29 post-trial motion SEE: Ex E where the judge herself acknowledged Appellant's fraud claim in her own order, and during his hearing SEE: Tr p 1-13

Here, the Respondents second alternative argument is misplaced. Appellant argues, that he was entitled to have his meritorious and timely motion addressed by the court of common pleas, as he has argued, not by the court of general sessions as the order and transcript of record shows. SEE: Ex. E and Tr. p 1-13.

the Respondents finally alternative argument is also misplaced. Here, Appellant argues, that he was not required by law. Nor

could he have argued fraud/extrinsic fraud under the P.C.R. Act. SEE:

Chewing v Ford Motor Credit Co. 579 S.W.2d 605; 17-27-10-160.

ARGUMENT (2)

As argued above, the Appellant argues, that the court of General Sessions lack subject matter jurisdiction to rule on Appellant's 60(b) motion itself.

When Appellant mistakenly filed his 60(b) action in the court of General Sessions. The Appellant further argue, that the court of General Sessions was required to transfer his action to the court of common pleas per S.C.R. Civil P - Rule 82

(b). Also see S.C.R. Civil P. - Rules

1 and 2. Ex. C. Ex D. Ex. E

Regardless, of whether his action was taken by the judge while she specifically acted as presiding judge of the court of general Sessions.

Which the court and Deputy Solicitor, Stron failed to bring up. And, the Appellant was not aware, that his 60 (b) motion was being heard in the Court of General Sessions, to object to it, until he rec'd the judge's order SEE: Ex. E. Also Tr.

Appellant further argue, that although the judge while she may have specifically acted as presiding judge of the Ct. of Gen. Sessions. And, as explained above in argument 1 and 2. The Appellant, the Respondent nor this court knows

the variety of reasons, why Appellant's 60 (b) motion was heard in the Ct. of Gen. Sessions.

When the judge's order acknowledged Appellant's fraud claim. But with no factual conclusions, of law - no evidentiary support for her ruling.

Here, the Respondent's argument (III) is unpersuasive as well due to Appellant's arguments (1) and (2) above,

Moreover, looking at the Respondent's Rule 60 argument they can not argue what is not in the record. Here, the Respondent has argued many things, and all has been misplaced... like the judge appropriately construed Appellant's motion as a post-trial motion. But here the

judge's order itself, acknowledged Appellant's fraud claim. But the judge's order lack "any" bases on "any" factual conclusions of law. Nor was the judge's order supported by "any" evidentiary support. Thus the judge's ruling/order is an abuse of discretion as well.

CONCLUSION

Based upon the foregoing arguments Appellant's case should be remanded back to the court of Common Pleas. And, or back to the court of General Session, to be transferred to the court of Common Pleas.

Date: 5/9/2018

Respectfully submitted

Jerome Williams

EXHIBIT A

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)
IN RE:)
GRAND JURY SESSIONS)
JANUARY-JUNE 2002)

IN THE COURT OF GENERAL SESSIONS

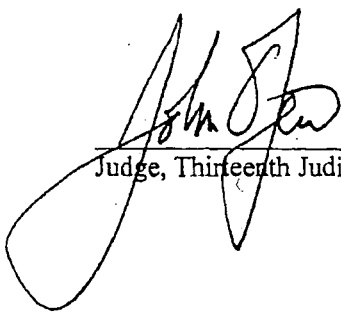
ORDER

IT IS ORDERED that the Grand Jury for Greenville County, South Carolina, shall convene during the month of January – June 2002 as follows:

MONDAY	JANUARY 7, 2002
TUESDAY	FEBRUARY 19, 2002
TUESDAY	MARCH 19, 2002
TUESDAY	APRIL 2, 2002
TUESDAY	MAY 7, 2002
TUESDAY	JUNE 25, 2002

IT IS FURTHER ORDERED that the Clerk of Court for Greenville County, South Carolina, shall notify all Grand Jurors of these meeting dates and times.

IT IS SO ORDERED.



Judge, Thirteenth Judicial Circuit

Greenville, South Carolina

October 16, 2001

Ex B

State of South Carolina
County of Greenville

Jerome Williams
Defendant

-vs.-

State of South Carolina
Plaintiff.

In the Court of General Sessions

Case No: ~~02-65-23-1576~~

02-65-23-1576

Memorandum in support of motion to set aside
judgment.

Comes now the defendant, Jerome Williams, Pro se, and hereby submits the memorandum in support of his rule 60 (b) (3) (5), SCRPC, motion to set aside judgment, raising claim of a fraud upon the court, as perpetrated by Greenville County Assistant Solicitor Lora A. Reese. Accordingly, defendant Jerome Williams (hereafter "Williams") would show this court the following:

I

Statement of Facts

Williams was convicted and sentenced in the Court of General Sessions, for Greenville County, after entering a guilty plea on June 19, 2002 for violation of S.C. Code Ann. { 16-11-311 Burglary First Degree. Judge John Few accepted Williams' plea and sentenced him to a thirty (30) year period of incarceration in the S.C. department of Correction.

II

Statement of Case

This motion involves Williams' attempt to gain relief from the judgment and conviction and sentence entered against him on June 19, 2002 in the above captioned criminal case. The rule 60 (b) (3) (5), SCRCF motion raises claim of a fraud upon the court, resulting from acts of gross misconduct and criminal violation of the law, as perpetuated by Lora A. Reese, the Greenville County Assistant Solicitor, in office on February 19, 2002, at the time the violations herein alleged arose.

Specifically, Assistant Solicitor Lora A. Reese (hereafter "Reese") caused false and misleading information to be printed and published in the true billed State Indictments returned against defendant Williams.

The facts and evidence below will conclusively establish an instance of extrinsic fraud upon the court.

III

Argument

[Standard of Review]

It is clear that a motion made for relief from judgment under Rules of Civil Procedure (SCRCF) rest within the sound discretion of the trial court. See Savo Investments V. Ocean Holiday Partnership, 314 S.C. 116, 441 SE2d 835, 843 (ct App 1994); Thomas V. Hammond, 279 S.C. 115, 382 SE2d 900 (S.C. 1989). A motion asserting "Fraud upon the court concerns the integrity of the Judicial process itself [and] a judgment may be set aside for fraud upon the court at any

time"; see 12 Joseph T. McLaughlin, Morris Federal Practice {60.21 [4] [a] at 60-61. That is, when a party can show [extrinsic] fraud upon the court "there is no time limit on any party or the court." Id. See also Chewing V. Ford Motor Credit Co. 354 S.C. 72, 579 SE2d 605 (S.C. 2003). (There is no statute of limitation when a party seeks to set aside a judgment due to fraud upon the court.) Indeed, the very language of rule 60 (b) (3) (5), so provides, "This rule does not limit the power of the court...to set aside a judgment for fraud upon the court."

Accordingly, this motion raising claim of an extrinsic fraud upon the court is both timely and proper, and Williams should be allowed to take testimony and present evidence at the hearing when scheduled.

Therefore, Williams would show this Court the following:

[Fraud Upon the Court]

In this case, Williams' bill of indictment prints that, at a Court of General Sessions, convened on February 19, 2002, the Grand Jurors of Greenville County presented upon their oath (see exhibit 1 Indictment) and the title page prints that it was published at a Court of General Sessions during its February term 2002 (see exhibit 1 Indictment). Lastly, all indictments are true billed and signed by Greenville County Assistant Solicitor Lora A. Reese (see exhibit 1 Indictment) who was in office at the time, and who would therefore be the person directly responsible for preparing and processing Williams' indictment.

However, the clear evidence presented below conclusively establishes that no Court of General Sessions had in fact been open on the indictment's February 19, 2002 date of return. Thus, false information is contained in Williams' State indictment, and therefore, in support of his claims, Williams would show this court the following:

The terms of court for Greenville County are tentatively fixed by S.C. code Ann. { 14-5-790, and which does not provide for a court to be open on the indictments day or return and publishing. Although in practice, the Greenville County terms of court are actually being set in six month intervals by order of the State Supreme Court. However, notwithstanding those conditions, the record clearly shows that no General Sessions Court had been open on the date in question (see exhibit 2 certified true copy court term calendar). Therefore, false information is contained in Williams' State Indictment, which was processed by Assistant Solicitor Lora A. Reese.

It is an offense against public justice to willfully give false information in a state indictment. S.C. code Ann. { 16-9-10, "Perjury and subordination of perjury" states in pertinent part:

- A. (2). It is unlawful for a person to willfully give false, misleading or incomplete information on a document, record, report or form required by the law of this state.
- B. (2) A person who violates the provisions of subsection A. (2). is guilty of a misdemeanor, and upon conviction must be imprisoned not more than six months, or fined not less than one hundred dollars or both.
- C. A person may be convicted under this section...if he or she commits perjury by his own act, consent or agreement.

First, it should be noted that a criminal indictment is a document required by the law of this state (see S.C. code Ann. { 17-17-10 (2003) "No person shall be held to answer in any court for an alleged criminal offence, unless upon indictment by Grand Jury" except in specific

instances). Therefore, for purposes of establishing perjury under these provisions of {16-9-10, Williams true billed indictment would clearly satisfy the requirements of subsection A. (2).

Second, it should be noted that Assistant Solicitor Lora A. Reese was in office and operating as Greenville County Prosecutor during the times relevant to the herein alleged violations, and therefore, was required to know the laws of this state, and had special responsibilities to see that justice was done. See Appellant Court Rules 407, Rules of Professional Conduct, Rule 3.8 comment; see also State V. Quattlebaum, 338 S.C. 86, 212 SE2d 587 (1975); State V. King, 222 S.C. 108, 71 SE2d 793, 798 (1952) "...the prosecutor must see that no conviction takes place except in strict conformity with the law, and that the accused is not deprived of any constitutional rights or privileges".

[Insert added]

Therefore, Assistant Solicitor Reese's act of printing false court term information in Williams' indictment would by necessity have to be viewed as a "willful" act. Accordingly, Ms. Reese is guilty of violations of {16-9-10, which acts would also constitute gross misconduct (see Rules of Professional Conduct, Rule 407, SCRCP; Rule 8.4b) "It is professional misconduct for a lawyer to commit a criminal act that reflects adversely on the lawyer's honesty, trustworthiness, or fitness as a lawyer in other respects"; and Rule 8.4(d) "It is professional misconduct for a lawyer to engage in dishonesty, fraud, deceit or misrepresentation".

In general, extrinsic fraud upon the court can be defined as "...a fraud perpetrated by officers of the court so that the judicial machinery cannot perform in the usual manner its impartial task of adjudging cases that are presented for adjudication" (see Evan V. Gunter, 294 S.C. 525, 366 SE2d 44, 46 [1988], quoting H. Lightsey, J. Flannagon, S.C. Civil Procedure, 408

2nd ed. [1985]). Importantly, our Supreme Court in Chewing held that, "The subordination of perjury by an attorney and/or the intentional concealment of documents by an attorney are actions which constitute extrinsic fraud" Id at 579 Se2d at 610.

Defendant Williams asserts that the facts and evidence presented above showing Reese's criminal violations of {16-9-10 "perjury against public justice" is in and of itself sufficient under Chewing to make out a Prima facie case of extrinsic fraud upon the court. Plainly, the false February 19, 2002 information printed and published in Williams' indictment by Assistant Solicitor Lora A. Reese did indeed harm the integrity of the judicial process.

Therefore, Williams would also show this court the following:

A criminal defendant in this state has a constitutional and statutory right to have an indictment returned by a legally constituted Grand Jury (see Evans V. State, 363 S.C. 495, 611 SE2d 510 [2005]; State V. Williams 263 S.C. 290, 210 SE2d 298 [1974]), and the right to make contemporaneous objections to a defective indictment, see S.C. Code Ann {17-19-90, "Every objection to an indictment for any defect apparent on the face thereof, shall be taken by demurrer or on motion to squash such indictment before the jury shall be sworn and not afterwards." Those procedural Due Process rights are owed to every criminal defendant in this state, and which also operates as checks and balances in the Judicial Process. However, in this case, the proper functioning of the court was frustrated by Ms. Reese's willful act of printing false information in Williams' indictment, incorrectly stating that the Grand Jury had been impaneled at a court of General Sessions on February 19, 2002 when in fact no such court had been open (see exhibit 1 indictment in comparison with exhibit 2 calendar). Thus Ms. Reese was able to

give an appearance of correctness to an otherwise irregular and most likely unlawful Grand Jury process (see exhibit 3, Newspaper Article).

Significantly, the false information also operated in such a manner as to improperly lead Williams into believing that the Grand Jury process had been supervised by the Court. In fact, it was this very reliance on the correctness of process that caused Williams not to make a contemporaneous objection to either the Grand Jury procedures, or its indictments. Importantly, Williams' failure to make contemporaneous objection to false indictment information also resulted in the court itself be deprived of the opportunity to examine and make necessary correction to a Grand Jury process known for its irregularities, (see exhibit 3, Newspaper Article). Interfering with the administration of justice in the manner shown here involves injury not only to Williams, but to public confidence in our state's judicial system as well. The proper functioning of our courts is a topic of great and fundamental interest in South Carolina, (see Quattlebaum, 338 S.C. 441 527 SE2d 109 (2000), "Every South Carolinian has a vital interest in the fair administration of justice").

Based on the facts and evidence presented in the record of this case, Williams has established that Assistant Solicitor Reese committed gross acts of misconduct and perjury against public justice, directed at the Judicial Process itself. Accordingly, fraud upon the court is shown here, (see Chewing and Evans. Rule 60 (b) (3) (5), SCRCP, places no limit on the power of the court to set aside judgment of conviction and sentence for a fraud upon the court.

Therefore, this court should correct its wrongs committed against Williams and this state's judicial system by Ms. Reese.

EX-1

STATE OF SOUTH CAROLINA)
COUNTY OF GREENVILLE)

INDICTMENT FOR
BURGLARY
FIRST DEGREE

At a Court of General Sessions, convened on FEBRUARY 19, 2002 the

Grand Jurors of Greenville County present upon their oath:

That JEROME WILLIAMS did in Greenville County, on or about the 27th day of January, 2001, willfully and unlawfully enter the dwelling of Robert E. Seay located at 1 Cedar Court, without consent with the intent to commit a crime therein, and the entering to remaining did occur in the nighttime. This is in violation of §16-11-311 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

W. A. Reese
SOLICITOR

Terms of Circuit and Family Court February 2002

EXHIBIT 2

Holiday:
Mon Feb 18, President's Day

Circuit Number	2/4/2002	2/11/2002	2/18/2002	2/25/2002
13	General Sessions Greenville Few, John JOHNSON	General Sessions Greenville Few, John JOHNSON	Common Pleas Non- Jury 19 Floyd, Henry DIGIROLAMO 19	Common Pleas Greenville Few, John JOHNSON
	General Sessions Greenville Kittredge, John KOFFSKEY	General Sessions Greenville Kittredge, John KOFFSKEY	General Sessions 21 Greenville Watson, Joseph	Common Pleas Non- Jury 25, 26 Kittredge, John KOFFSKEY 25, 26
	Common Pleas Greenville Patterson, Larry DIGIROLAMO	General Sessions Greenville Patterson, Larry DIGIROLAMO	General Sessions/State Grand Jury 22 Greenville Few, John	Common Pleas Greenville Patterson, Larry DIGIROLAMO
	Common Pleas Non- Jury Watson, Joseph THOMAS	General Sessions Pickens Watson, Joseph JENKINS		Common Pleas Non- Jury/PCR Watson, Joseph Common Pleas Non- Jury 1 Kittredge, John KOFFSKEY 1

CERTIFIED TRUE COPY,

By

South Carolina Court Administration

State of South Carolina
Solicitor, Thirteenth Judicial Circuit

Ex. C

Telephone: 864-467-8647
Telefax: 864-467-8610



Greenville County Courthouse
305 E. North Street, Suite 325
Greenville, SC 29601-2185

Solicitor
W. Walter Wilkins

February 14, 2017

The Honorable Letitia Verdin
Chief Administrative Judge for General Sessions
305 E. North Street, Suite 318
Greenville, SC 29601

Re: State of SC v. Jerome Williams
Indictment # 2002-GS-23-001576

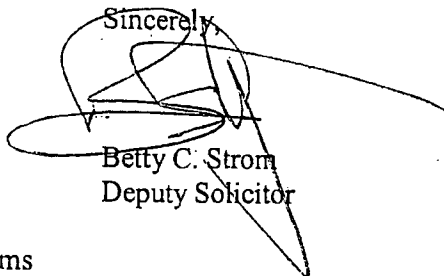
Dear Judge Verdin:

I am writing to you in your capacity as Chief Administrative Judge for General Sessions court. The above defendant has filed a Motion to Set Aside Judgement to which the state responded in writing. This was done back in 2014. A hearing was never scheduled by the Chief Administrative Judge and subsequently the defendant has filed a law suit against the State.

I am writing to request that you review the matter and either decide on the basis of the pleadings, or to schedule a hearing in the matter. I believe you can determine the matter based upon the pleadings, but I am just trying to get this matter resolved.

If there is anything I can do, please do not hesitate to contact me. I have enclosed copies of the pleadings filed in the clerk of court's office for your convenience.

Sincerely,



Betty C. Strom
Deputy Solicitor

cc: W/out enclosures Jerome Williams
Inmate # 00213559/Tyer River Correctional Institute

Ex. D

Date 2/20/17

Dear Judge

Please be advised, that I rec'd solicitor letter regarding my 60 (b) motion and her answer.

With all due respect, my 60 (b) motion can "not" be argued nor decided without a hearing, orally argued from both sides."

Solicitor Betty Stron own answer support my request for a hearing. If I filed in the wrong court, per S.C.R. Civil P. - Rule 82 (a) I can ask for my action to be moved to the right Ct.

And, make any amendments per. Rule 15 (b), with leave of the Ct.

A matter of fact, Solicitor Betty Stron refused to say anything about my 60 (b) motion until I filed a mandamus [#]2016-CP-40-5056 upon this matter.

Thus, would you be so kind as to set my 60 (b) for a hearing. Thereby any appeal rights/issues for both

cc: Solicitor

Personal file

Sincerely
Gene
Williams

Ex. E

STATE OF SOUTH CAROLINA) IN THE COURT OF GENERAL SESSIONS
COUNTY OF GREENVILLE) THIRTEENTH JUDICIAL CIRCUIT

THE STATE)
VS.) ORDER DENYING DEFENDANT'S MOTION
JEROME WILLIAMS,) 2002-GS23-1576
DEFENDANT)

02231576

FILED
PALE
GREENVILLE CO
2017 MAY 15 PM 1:39

THIS MATTER CAME BEFORE ME FRIDAY, MAY 12, 20017 ON A PRO SE MOTION OF THE DEFENDANT, Jerome Williams requesting to set aside judgement of the above indictment. The defendant alleges a fraud upon the court in that he claims that a Grand Jury was never convened on February 19, 2002, the date his indictment was true billed.

The defendant was present for the hearing. The State was present and represented by Betty C. Strom, Deputy Solicitor for the 13th Circuit Solicitor's Office.

Upon hearing from the defendant and consideration of the filed pleadings, I find that the defendant's motion is without merit and is hereby DENIED.

So Ordered this 15 day of May, 2017.



Honorable Letitia H. Verdin
Chief Administrative Judge, 13th Circuit

Greenville, SC

EXHIBIT 3

Grand jury pace draws criticism

Panel typically weighs 900 indictments per day; questions raised over its effectiveness

JURY FROM PAGE 1A

tions on what it wants to know, Ariail said. Solicitors have communicated those instructions to law enforcement officers who present cases to the grand jury, he said.

In DUI cases, for example, the jury may want to hear only about "where the stop took place, what the bad driving was and what the Breathalyzer is," Ariail said.

"Bam, bam, bam — you're talking three seconds to present these cases," he said.

antees defendants a grand jury hearing in federal cases, but the U.S. Supreme Court has said that states can use a different system, said Andrew Siegel, assistant law professor at the University of South Carolina.

Even with the option, there often is little support for eliminating grand juries at the state level, he said.

Solicitors like them because they are friendly to the prosecution, Siegel said. Defense attorneys see grand juries as a check on prosecutorial power, at least in some cases, and there is no guarantee they would be replaced with anything better, he said. 54

STAFF WRITER
palongi@greenvillenews.com

Each time the Greenville County grand jury meets, it considers about 900 indictments in a single day.

The group of 18 citizens went through 7,321 charges from Jan. 1 to Aug. 31 and returned indictments on all but one, according to the Greenville County Clerk of Court's Office.

The grand jury system was set up as a check against prosecutorial vendettas and hasty indictments. But with the grand jury blazing through so many cases, some have raised questions about how effective the panel can be.

Furman University political science professor Don Aiesi called the grand jury a "rubber stamp" for the Solicitor's Office. "The system isn't working," he said. "It has not functioned effectively as any kind of buffer."

Thirteenth Circuit Solicitor Bob Ariail said the grand jury hears about two-thirds of the cases that pass through his office. The panel rarely refuses to indict because solicitors weed out the weak cases and dismiss them, he said.

"We don't take junk to the grand jury," Ariail said.

The grand jury's job is to hear the state's evidence and decide if there is probable cause to hold a trial. Unlike most hearings in the criminal justice system, the defendant has no right to be present, have counsel or introduce evidence.

The Solicitor's Office doesn't oversee the grand



"We don't take junk to the grand jury."

— Bob Ariail
13th Circuit Solicitor

jury. The panel reports to Chief Administrative Judge Gary Hill, who declined comment, citing judicial ethics.

Defense attorney Stephen Henry said he has been arguing in some cases that indictments should be quashed because of how many cases are run through the system. But the grand jury is a secret process, he said, making his argument tough to prove.

"If I could bring in one grand jury foreman to testify under oath, I think all this would be over," Henry said.

The county's grand jury meets once a month. Panel members start hearing cases at 9 a.m. and usually finish by 6 p.m., although they wrapped up at about 3:45 p.m. last month, Ariail said.

The grand jury has given solicitors specific instruc-

See JURY on page 3A

you treat the grand jury as archaic and do away with it," Siegel said, "or take steps to reinvigorate the grand jury."

State Sen. Ralph Anderson, D-Greenville, pledged in an interview with *The Greenville News* to learn more about the grand jury and consider legislation before the Legislature reconvenes in January.

Until he was contacted by *The News*, he didn't know about the grand jury's workload or the high percentage of indictments it returns.

"It can't be fair," said Anderson, a member of the Senate Judiciary Committee.

Paul Alonzi can be reached at 298-

STATE OF SOUTH CAROLINA

COUNTY OF GREENVILLE

State of South Carolina,

Plaintiff,

-VS-

Jerome Williams,

Defendant.

COURT OF GENERAL SESSIONS

Case No(s) .:

TRANSCRIPT OF RECORD

May 12, 2017

Greenville, South Carolina

B E F O R E:

HONORABLE LETITIA H. VERDIN, Judge.

A P P E A R A N C E S:

BETTY STROM, Esquire
Attorney for the Plaintiff

JEROME WILLIAMS, Pro Se
Defendant

Teresa B. Johnson, CVR-M, CM
Certified Court Reporter
P.O. Box 2812
Greenville, S.C. 29602

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EXHIBITS PAGE

NO.

DESCRIPTION

ID EV

PLAINTIFF EXHIBITS

(No exhibits offered.)

DEFENSE EXHIBITS

(No exhibits offered.)

COURT EXHIBITS

(No exhibits offered.)

P R O C E E D I N G S

(Proceedings begin on the 12th day of May, 2017
at approximately 12:19 p.m.)

THE COURT: Hey, there. Right there.
You're in the right place.

MR. WILLIAMS: All right.

THE COURT: All right. Mr. Williams, you
have got a 60(b) motion that you filed with my
office. You actually filed it with Judge Few,
but I've taken his place since, I guess, you've
been incarcerated. You filed it wanting me to
set aside a conviction against you from some
time ago. I've read your motion. I've read your
memo.

You requested a hearing, so I've set it for
a hearing. I'll tell you how it's going to go.
I'm going to give you -- it's set for a 15-
minute hearing, which is what our motions are
set for today, between 5 and 15 minutes. But
I'll give you the maximum time, 15.

What we're going to do is like this, I'm
going to let you argue for about 5 minutes, if
there's anything you want to point out from
your memo, specifically, or if there's anything
you want to add to it. All right. No need to go

1 through the whole thing again. Then I'm going
2 to turn to the Solicitor. I'm going to let her
3 argue for about five minutes, whatever she
4 wants to say. Then I'm going to come back to
5 you for maybe one or two minutes of rebuttal,
6 is what we call it. I'll give you the last
7 word, so to speak. Then that will leave a
8 couple of minutes for me to ask any questions
9 that I need to ask before I rule. All right.
10 Fair enough?

11 **MR. WILLIAMS:** Yes, ma'am.

12 **THE COURT:** Okay. Alrighty. Yes, sir.

13 **MR. WILLIAMS:** Let me get it together.

14 **THE COURT:** That's okay. Take your time.

15 **MR. WILLIAMS:** Okay. I'm attempting to
16 gain relief in the judgement, conviction and
17 sentence. I -- I made this motion, 60(b)
18 motion --

19 **THE COURT:** Uh-huh.

20 **MR. WILLIAMS:** --- because of fraud upon
21 the court.

22 **THE COURT:** Okay.

23 **MR. WILLIAMS:** I don't -- extrinsic fraud
24 from the court.

25 **THE COURT:** Okay.

1 **MR. WILLIAMS:** It's -- it's not -- statute
2 of limitations. You are familiar with Chewning
3 versus Ford Motors?

4 **THE COURT:** Yes, sir.

5 **MR. WILLIAMS:** I'd really like to know why
6 -- I really want to know was there a grand jury
7 convened on February 19th, 2002. That's really
8 -- that's really what I want to know.

9 **THE COURT:** Did the grand jury take a look
10 at your -- now, remind me, were you tried?

11 **MR. WILLIAMS:** No, I took a guilty plea.

12 **THE COURT:** You took a guilty plea?

13 **MR. WILLIAMS:** Yes, ma'am.

14 **THE COURT:** So if it wasn't -- if it
15 wasn't presented to the grand jury, then you
16 would have had to waive your right to have it
17 presented to the grand jury. Do you remember
18 anything like that? You would have had to sign
19 something on the sentencing sheet that said you
20 waived your right to have it presented, and
21 then the judge would ask you questions about
22 that in the questions that he or she would have
23 asked. That's pretty standard procedure.

24 But do you know, Ms. Strom? Was this case
25 indicted?

1 **MS. STROM:** Judge, I'd have to look it up
2 on the computer just to make sure. I was
3 looking to see if I had it in our response.
4 (Pause.)

5 The grand jury was convened on that date.
6 The order signed by Judge Few back in October
7 of 2001 set the grand jury dates for the first
8 six months.

9 **THE COURT:** I see.

10 **MS. STROM:** And February 19th, 2002 is one
11 of them. Ms. Washington looks like she's
12 helping me out on that.

13 **THE COURT:** Oh, okay.

14 **MS. STROM:** She'll be able to check.

15 **THE COURT:** Okay. So we're looking that up
16 right now.

17 **MR. WILLIAMS:** So I have -- I got a
18 certified calendar that said that it wasn't
19 convened.

20 **THE COURT:** Okay. I think you're grasping
21 at straws on that one. The administrative judge
22 sets -- sets those dates and signs an order for
23 those dates to be -- to be set. In all honesty,
24 Mr. Williams, I'm just telling you, the grand
25 jury meets on a regular basis once a month in

1 Greenville County.

2 **MR. WILLIAMS:** But wouldn't there --
3 wouldn't there be a court reporter there?

4 **THE COURT:** No, sir. No, sir. Not in the
5 grand jury. Grand jury proceedings are secret.
6 Not even a defense attorney would be there,
7 nothing.

8 **MR. WILLIAMS:** So that -- so that piece of
9 paper don't mean anything then if you can't
10 prove that there wasn't one convened.

11 **THE COURT:** I'm telling you, if Judge Few
12 ordered, as the administrative judge, that the
13 grand jury convene those dates, it did. They --
14 without a special intervening order, they would
15 had convened and they would have considered
16 indictments on that day.

17 **MR. WILLIAMS:** I don't understand.

18 **THE COURT:** Okay. Okay. I wish I could
19 help you to understand it. We're looking it up
20 to see if it even was indicted.

21 **MR. WILLIAMS:** It's just a piece of paper
22 that got his name on it.

23 **THE COURT:** That piece of paper with his
24 name on it is a very important piece of paper
25 around here.

1 **MR. WILLIAMS:** So this certified calendar
2 don't mean nothing? That's what you're saying.

3 **THE COURT:** I'm telling you even if it's
4 not on the calendar or however it works, if
5 it's not on some calendar that's put out by the
6 clerk's office or whatever, I'm just telling
7 you the grand jury in Greenville County meets
8 once a month pursuant to an order from an
9 administrative judge. Without an intervening
10 superceding order, they have to meet. We're
11 looking it up right here to see --

12 **MS. STROM:** I'm going to step over there.

13 **THE COURT:** -- yeah -- to see if the case
14 was actually indicted. So it may be that it was
15 indicted.

16 **MS. STROM:** It was true billed February
17 19th, 2002.

18 **THE COURT:** Okay. And that was a grand
19 jury day. There you go. So your question about
20 that, it was, in fact, indicted on that day,
21 which is further proof that the grand jury did
22 indict on that day.

23 **MR. WILLIAMS:** So that's -- I don't get
24 it.

25 **THE COURT:** Okay. Any other matters you

1 want to bring up.

2 **MR. WILLIAMS:** That's the main reason I
3 came in here.

4 **THE COURT:** I understand. I understand. It
5 looks like the mystery's solved. We got an
6 order from the judge that says for the grand
7 jury to meet on that day. Then we've got an
8 indictment where you were indicted on that
9 charge for that day. Then you entered a plea, a
10 guilty plea, on that indictment at some point.
11 I really don't have any basis to vacate your
12 conviction based on that. All right.

13 **MR. WILLIAMS:** I don't -- I still don't
14 get it.

15 **THE COURT:** I understand. I understand.
16 The legal process can be -- the legal system
17 can be very confusing, but that's, in fact,
18 what we've got.

19 All right. Y'all've got his indictment
20 there?

21 **MS. STROM:** Yes, ma'am. It shows the --

22 **THE COURT:** You want to just give him a
23 copy of that indictment?

24 **MS. STROM:** I'll show it to him and then I
25 can show it to you. He can have this copy.

1 MR. WILLIAMS: Oh, I've already got that.

2 THE COURT: Okay.

3 MR. WILLIAMS: So it's nothing I can do?

4 THE COURT: Not based on what -- not based
5 on what you've presented to me. There's nothing
6 that -- there's nothing that gives me a basis
7 to vacate your conviction. All right.

8 Mr. Williams, I know this isn't news you wanted
9 to hear today. But as I've said, there's
10 nothing I -- there's just no basis for me to
11 vacate your conviction. I wish you the best of
12 luck though.

13 MR. WILLIAMS: Well, I --

14 THE COURT: Thank you.

15 MS. STROM: Thank you, Your Honor.

16 THE COURT: Do you want this?

17 MR. WILLIAMS: No, I have one.

18 THE COURT: You have it? Okay.

19 MS. STROM: Thank you, Your Honor.

20 MR. WILLIAMS: So I can appeal it, right?

21 THE COURT: You certainly can appeal this
22 decision, if you'd like to.

23 MS. STROM: Do you want me to prepare an
24 order, Your Honor?

25 THE COURT: Do you mind?

1 **MS. STROM:** I don't mind at all.

2 **THE COURT:** Thank you so much. So we'll
3 have an order ---.

4 **MS. STROM:** And I'll get a copy to him.

5 **THE COURT:** --- and you'll get a copy of
6 it. Once you receive a copy, you can.

7 **MR. WILLIAMS:** All right. Thank you,
8 ma'am.

9 **THE COURT:** Thank you.

10 **MS. STROM:** Thank you.

11

12 (Proceedings conclude at approximately

13 12:29 p.m.)

14

15

16

17

CERTIFICATE

13

STATE OF SOUTH CAROLINA)
)
COUNTY OF GREENVILLE)

I, the undersigned, Teresa B. Johnson, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Greenville, South Carolina, on this 15th day of January, 2018.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

Teresa B. Johnson

Official Court Reporter